

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

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In re:

Flour City Bagels, LLC,

Case No. 16-20213-PRW  
Chapter 11

Debtor.

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**DECISION AND ORDER  
RESCHEDULING HEARING ON MOTION  
SEEKING APPROVAL OF COMPETING DISCLOSURE STATEMENTS**

PAUL R. WARREN, United States Bankruptcy Judge

On December 22, 2016, the Court held a chambers conference with the parties, in advance of convening a hearing on the various motions scheduled to be heard that day—including the U.S. Trustee’s (“UST”) motion to dismiss this case. (ECF No. 722). At that time, the Court was made aware that competing Disclosure Statements and Chapter 11 Plans had been filed on December 20, 2016 by United Capital Business Lending, Inc. (“United”) and Bruegger’s Franchise Corporation (“Bruegger’s”) (ECF Nos. 714, 715)—on the one hand—and Canal Mezzanine Partners II, LP (“Canal”) and MRM Real Estate Fund I, LLC (“MRM”) (ECF Nos. 716, 718)—on the other hand. The Court was also made aware that United and Bruegger’s had filed a motion seeking approval of their Disclosure Statement. (ECF No. 717). Canal and MRM filed their motion seeking approval of their Disclosure Statement shortly thereafter. (ECF No. 737).

During that chambers conference, the Court and parties agreed on a timeline for consideration of the competing Disclosure Statements, with an eye toward March 20, 2017 as the

anticipated date for a contested Confirmation Hearing on the competing Chapter 11 Plans. The parties urgently requested that the Court hear and decide the contested confirmation issues—and confirm a Plan—by March 31, 2017—to avoid the potential loss of the Debtor’s leases on its bakeries. The Court set January 27, 2017 at 11:00 a.m. as the hearing date for a hearing to consider approval of the competing Disclosure Statements. The Court expected—foolishly it now seems—that objections to the competing Disclosure Statements would be largely *pro forma* and easily addressed. As a result, the Court approved the parties’ proposed hearing schedule, by Order entered on December 22, 2016. (ECF No. 724). The Order set January 23, 2017 at 4:00 p.m. as the last day for filing objections to the competing Disclosure Statements. It was presumed that any objections could be considered and resolved within the 72 hour window provided by the Order, so that the competing Disclosure Statements could be revised and the case stay on course for the March 20, 2017 Confirmation Hearing. Instead, the principal creditors and competing Plan proponents have decided to turn the Disclosure Statement process into an all-out battle.

On the last day set by the Court for objections to the Disclosure Statements—in fact, just minutes before the 4:00 p.m. deadline—United and Bruegger’s filed their objection to the Canal/MRM Disclosure Statement (ECF No. 772), followed by an objection by Canal and MRM to the United/Bruegger’s Disclosure Statement (ECF No. 774). Prior to those objections, United and Bruegger’s filed their First Amended Disclosure Statement on January 20, 2017. (ECF No. 766). On January 25, 2017, Canal and MRM filed a lengthy “response” to the objections of United/Bruegger’s to the Canal/MRM Disclosure Statement. (ECF No. 778). Late in the afternoon that same day, Canal filed a First Amended Chapter 11 Disclosure Statement. (ECF No. 780).

The parties can, of course, litigate to their hearts' delight. However, the Court will afford itself—and the UST and Unsecured Creditors' Committee counsel—the time necessary to adequately review the voluminous submissions, as well as the complex plan confirmation issues raised by the parties in connection with the hearing on the competing Disclosure Statements. As a result, the timeline proposed by the parties on December 22, 2016 will necessarily be significantly revised by the Court, in due course—but not until after all issues related to approval of the competing—now amended—Disclosure Statements have been resolved. The Debtor is advised that the proposed March 20, 2017 contested Confirmation Hearing date is almost certain to be delayed beyond March 31, 2017.

The hearing on the motions seeking approval of the competing Disclosure Statements is rescheduled to **February 7, 2017 at 11:00 a.m.**, subject to further adjournment as may be necessary to allow consideration of any further filings by the parties. Additionally, if the Court determines that the amendments to the Disclosure Statements are sufficiently material, compliance with the 28-day notice period under Rule 3017(a) FRBP will be required. The Court invites the UST and the Unsecured Creditors' Committee to weigh in on the notice issue under Rule 3017(a) FRBP, in advance of the rescheduled hearing date.

IT IS SO ORDERED.

DATED: January 25, 2017  
Rochester, New York

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HON. PAUL R. WARREN  
United States Bankruptcy Judge